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Attorneys for Defendants
*Club Fit Management, Inc., Jefferson Valley
Racquet Club, Inc., David Swope, Beth Beck,
and Bill Beck*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	
TODD BAZZINI, GREGORY LEONARCZYK,	:
NOAH ALLEN, and JOHN MARKIEWICZ,	:
Individually and on behalf of all other persons	: Civil Action No. 08 Civ 4530 (BSJ)(MHD)
similarly situated,	:
	:
Plaintiffs,	: <u>Document Electronically Filed</u>
	:
-against-	:
	:
CLUB FIT MANAGEMENT, INC., JEFFERSON	: DECLARATION OF BILL BECK
VALLEY RACQUET CLUB, INC., DAVID	:
SWOPE, BETH BECK and BILL BECK,	:
	:
Defendants.	:
-----X	

I, BILL BECK, hereby certify and declare as follows:

1. I am Vice President, Club Operations, of Club Fit ("Club Fit") and have been employed in that capacity since 2004. For 10 years before that, I worked as a General Manager for Club Fit.

2. Based upon my personal knowledge and understanding, I am competent to attest to the matters within this Declaration in opposition to the Motion of Todd Bazzini, Gregory Leonarczyk, Noah Allen, Ryan O'Neal, Erin Crandall, Adrian Cosma, Leaf O'Neal (the "Tennis

Employees”) and John Markiewicz (collectively referred to as “Plaintiffs”) for certification of this matter as a collective action.

3. For more than 30 years, Club Fit has offered comprehensive health and fitness facilities and programming to enhance quality of life and physical well being for community members of all ages.

4. Founded in 1973, Club Fit presently operates clubs in Briarcliff Manor and Jefferson Valley, New York.

5. With the exception of Markiewicz, the Tennis Employees are former or current employees of Club Fit’s Tennis Department.

6. They held various staff, administrative, and management positions within and outside of the Tennis Department, worked for different supervisors, and performed different functions during their tenures with Club Fit.

Plaintiffs Received Club Fit’s Written Overtime Policy.

7. For at least the last six years, Club Fit maintained a written overtime policy in its Employee Handbook. Relevant pages of the Handbook are attached to this Declaration as Exhibit 1. The Plaintiffs received and had ready access to a copy of the Handbook.

8. Club Fit’s overtime policy states:

Overtime

Employees who are eligible to receive overtime pay may not work more than 40 hours in a workweek without obtaining prior approval from their manager.

See Exh. 1.

9. Our written overtime policy also states: “It is the employee’s responsibility to maintain accurate records for all hours worked.” The Handbook also contains Club Fit’s policy on recording time, which confirms that all employees will be paid for “the time that is correctly recorded and approved by your manager.” *See* Exh. 1. Club Fit never maintained a blanket

prohibition against paying overtime to eligible employees. In fact, Club Fit managers have granted, and continue to grant employees permission to work overtime and pay overtime wages when necessary for specific tasks.

10. At times, employees, including some of the Tennis Employees, expressed an interest in working overtime. I reminded them, in words or substance, of Club Fit's written overtime policy. I never said that "no one at Club Fit gets overtime." That is categorically false.

11. The Tennis Employees also make allegations of "time shaving." In light of our written policies, that claim is incredible. During their employment, moreover, the Plaintiffs did not to my knowledge complain to management that their various supervisors had committed such a violation of Club Fit's written policies.

12. Plaintiffs also fail to identify when these alleged infractions occurred or which manager in which department allegedly committed what type of infraction to which employee. Without more facts, we cannot conduct the manager-by-manager and employee-by-employee inquiry necessary to further rebut Plaintiffs' claims.

13. The Tennis Employees additionally argue that every task they ever performed beyond teaching tennis—including picking up tennis balls after a lesson—was "off-the-clock" work. This arises from their creation of an artificial distinction between their "on court" and "off court" duties. As reflected in their Club Fit job descriptions, however, such a distinction did not exist.

14. Indeed, each Tennis Employee understood and acknowledged in signed writings that they were expected to do more than simply teach tennis. Their daily routines included a variety of other tasks including, for example, coordinating some of the financial aspects of the lessons they provided. In that regard, each Tennis Employee was asked to:

- insure that clients paid for lessons;
- make sure prepaid lesson packages are kept up to date and finished within limits;
- collect daily chits for private lessons;
- return phone calls within 24 hours; and
- attend monthly and bimonthly meetings.

Copies of the list of responsibilities for Tennis Employees, signed by Allen, Bazzini, and Leonarczyk, are attached as Exhibit 2.

15. In the normal course of their work, the Tennis Employees also understood that they were expected to:

- wear tennis attire;
- put away tennis balls and leave the courts neat and clean;
- prepare and submit their own payroll information at the end of each month;
- arrange for coverage of all lessons; and
- address managers, staff, and members professionally.

See Exh. 2.

16. What the Tennis Employees call “off-the-court” tasks were normal requirements of their positions, as set forth in the descriptions they signed.

17. The Tennis Employees understood that their compensation was based, in part, upon their completion of non-teaching tasks which formed a part of their daily routine at Club Fit. By signing off on their job descriptions, the Tennis Employees acknowledged their “complete understanding of these items.” *See* Exh. 2, No. 41. They were not “coerced” into working “off-the-clock”; they were simply doing their jobs.

18. Further contrary to their assertions, Club Fit did not require the Tennis Employees to accompany junior players to off-site tournaments. The Tennis Employees’ job descriptions contain no reference whatsoever to such a requirement.

19. On occasion, I am aware that some Club Fit members may have asked a Tennis Employee to accompany them and/or their child to an off-site tournament. Whether a Tennis Employee agreed or refused such a request was strictly between the Tennis Employee and the Club Member. Club Fit played no role in the decision to accept or decline that opportunity.

20. Likewise, travel arrangements, hotel accommodations, and additional expenses—including compensation of the Tennis Employee's time, if any—were handled directly between the Club Fit member and the Tennis Employee. Such excursions were not part of the Tennis Employees' essential job functions and Club Fit was not involved in such arrangements.

21. Leonarczyk and Allen occasionally worked at tennis tournaments held at a Club Fit location, for which they were compensated by Club Fit.

22. For their provision of tennis lessons and related tasks, the Tennis Employees received hourly commissions, ranging from \$22 to \$33 per hour.

23. This, however, is where the similarities between the Tennis Employees end.

As A Former Member Of Management, Noah Allen Is Dissimilar To The Other Tennis Employees.

24. In July 2003, Allen was offered and accepted the position of Co-Director of Adult Tennis Programming and Men's League Coordinator. For administrative duties associated with that work, Allen received \$17.00 per hour, in addition to his \$29.00 hourly rate as a tennis pro.

25. Unlike any of the other Tennis Employees, Allen became an exempt, salaried manager on September 7, 2004. At that time, Allen was offered and accepted a promotion to the position of Tennis Manager, a full-time administrative position with an attendant annual salary of \$50,000.

26. As a member of Club Fit management, Allen's title, job duties, and exempt status were different from every other Tennis Employee. In that role, Allen handled day-to-day operational issues of the Tennis Department at an administrative level, which included processing payments, scheduling, holding meetings, supervising tennis programming and planning, and managing, growing, and developing Club Fit's tennis program and staff of professionals. Allen also assumed supervision of Club Fit's Junior Development Program, which included registration, try-outs, placements, scheduling, and other administrative issues. A copy of Allen's Tennis Manager job description, which he signed, is attached as Exhibit 3.

27. Allen's allegation that he worked in excess of 40 hours per week after September 2004 conspicuously omits the fact that he was an exempt salaried member of Club Fit management at that time.

Allen's Removal From Management Due To His Underperformance.

28. Within months of Allen's promotion, his supervisor, Mitchell David, recognized Allen's unsatisfactory job performance. Mr. David had been hired by Club Fit in 1993.

29. In a special performance evaluation conducted on January 13, 2005, Mr. David and Allen reviewed at least a dozen areas in which Allen needed to improve. A 60-day follow-up evaluation was then set for March 2005. Documentation memorializing Allen's performance evaluation—which Allen signed without comment on January 22, 2005—is attached as Exhibit 4.

30. Allen's 60-day evaluation took place on or about March 17, 2005. Though Mr. David noted that Allen had "made progress" since January 2005, the evaluation identified at least nine areas where Allen was "starting to slip." Documentation memorializing that performance review—which Allen signed without comment on March 25, 2005—is attached as Exhibit 5.

31. Despite repeated guidance and instruction, Mr. David believed that Allen's performance did not further improve and he was removed as the Tennis Manager on June 27, 2005.

32. Allen's demotion was due to well-documented performance issues. It was not motivated in any way by a desire to retaliate against Allen for non-existent "wage and hour grievances."

33. Indeed, no one at Club Fit threatened or retaliated against Allen or any of the Plaintiffs for any reason.

34. After his demotion, Allen was offered the opportunity to resume teaching and responsibilities as Men's League Coordinator. Instead, he left Club Fit from June 27 to August 15, 2005.

35. Allen then resumed work at Club Fit as a Head Tennis Pro at an hourly teaching rate of \$32.00. Roughly one month later, he resigned.

36. Though he now claims—for the very first time—that he believed that he "had no choice but to resign," Allen led me to believe that he left Club Fit in order to re-locate to California.

Gregory Leonarczyk Is Dissimilar To The Other Tennis Employees Because He Also Held A Variety Of Different Positions.

37. Leonarczyk was employed by Club Fit until January 6, 2008. As a tennis instructor, Leonarczyk was paid commissions which ranged from \$15.00 an hour to \$33.00 at the time of his voluntary resignation.

38. In addition to teaching tennis and performing related tasks, Leonarczyk was offered and accepted the position of Program Director for Club Fit's Junior Challenge Ladder on July 1, 2003. In that role, Leonarczyk was responsible for insuring that:

- Saturday night league matches are played and results tabulated;
- tables and paperwork removed from the courts;
- the courts are ready for scheduled maintenance; and
- the building is locked and secure at the conclusion of play.

A copy of the Staff Coverage Policy for the Junior Ladder League is annexed as Exhibit 6.

39. For his work as Program Director, Leonarczyk received \$14.00 an hour, in addition to his teaching rate.

40. On top of his teaching rate and league coordinator rate, Leonarczyk was also offered and accepted work as a tennis racquet stringer at Club Fit. From May 1, 2006 to June 31, 2006, Leonarczyk was paid an additional \$12.00 per hour stringing racquets. From July 1, 2006 until his resignation without notice on January 6, 2008, he received \$15.00 per hour for that work.

Erin Crandall Is Dissimilar To The Other Tennis Employees Because She Held Different Positions Inside And Outside Of The Tennis Department.

41. Crandall was hired as a tennis professional on September 19, 2005, at a teaching rate of \$29.00 per hour. In addition to teaching tennis and performing related tasks, on April 5, 2006, Crandall was offered and accepted the position of Administrative Assistant to Club Fit's Assistant General Manager, Joseph Chavez.

42. In that capacity, she reported directly to Mr. Chavez and was responsible for ordering supplies, maintaining inventory, managing insurance certificates, and handling frontline staff and management requests outside of the Tennis Department. For 15 hours of work as an Administrative Assistant, Crandall was paid \$150.00 per week.

43. On April 26, 2007, Crandall was offered and accepted the opportunity to increase her administrative workload, for which she earned \$11,440 per year.

44. On top of her teaching and administrative functions, Crandall was offered and accepted the position of Assistant Coordinator of Club Fit's Junior Ladder League. In that role, for which she received an additional \$18,000, Crandall was responsible for:

- taking attendance, accepting payments, and providing safety instructions;
- monitoring all matches; and
- supervising the departure of the junior players.

See Exh. 6.

45. At her request, Crandall ceased her administrative duties in 2007 and her work with the Junior Ladder League in 2008. She subsequently became a seasonal employee in April of this year, with an expected return to work date of September 1, 2008.

The Plaintiffs Are Not Substantially Similar To Any Other Club Fit Employees.

46. There are more than a dozen different departments within Club Fit whose salaried and hourly employees perform work that is entirely distinct from that of the Plaintiffs. Those departments include:

- Operations
- Administration
- Finance
- Information Technology
- Human Resources
- Service Training
- Community Events
- Sales
- Marketing/Advertising
- Creative Services
- Maintenance
- Member Services
- Nursery
- Party Planning
- Children's Programming
- Perinatal Fitness
- Physical Therapy
- Massage Therapy
- Cancer Wellness

- Aquatics
- Reception
- Club Fit's Café
- Child Care

Each of these departments employ a variety of managers, administrators, and exempt and non-exempt personnel who perform a wide range of different functions.

47. Plaintiffs contend that Club Fit “commonly” misclassified as exempt employees within those various programs who are not exempt from overtime. I am aware of no such instance of even unintentional misclassification of a non-exempt employee.

48. Plaintiffs claim that they are similarly situated to some unnamed aquatics employees or workers in our Café. Our aquatics department includes supervisors, lifeguards, swim instructors, and swim team coaches who are compensated differently based upon their respective responsibilities. They are not treated the same as each other—let alone like the Plaintiffs.

49. Likewise, our restaurant workers include supervisors, chefs, cashiers, food preparation workers, and catering staff. Some of them work fixed schedules while others work sporadically; some are eligible to receive tips, while others are not. Again, they are treated differently from each other depending upon their job functions—which is the only thing they have in common with the Plaintiffs.

50. Indeed, one need look no further than Plaintiff Markiewicz to see how he (and his colleagues in the Fitness Department) differ from the Tennis Employees and every other Club Fit employee.

51. Markiewicz initially worked as a temporary administrator for Club Fit for about one month in 2001. He was re-hired on January 7, 2002 as a Fitness Professional.

52. As a Fitness Professional, Markiewicz assisted Club Fit members as they exercised in the gym area. His duties included observing, assisting, and spotting gym members as needed, and cleaning equipment and racking weights after use. A copy of Markiewicz's job description as a Fitness Professional, which he signed, is attached as Exhibit 7.

53. As a Fitness Professional, Markiewicz reported to Fitness Directors Donna Berta and David Garcia. Markiewicz's starting rate was \$8.50 per hour and, at the time that his employment was terminated for cause, Markiewicz was earning \$12.70 per hour. In that role, Markiewicz worked less than 40 hours per week and rarely, if ever, worked more than 40 hours per week in that role.

54. On July 1, 2002, Markiewicz was offered and accepted the additional position of Personal Trainer. As a Personal Trainer, Markiewicz was responsible for providing one-on-one individualized fitness instruction by appointment to Club Fit members.

55. Markiewicz' two jobs at Club Fit were different positions with different responsibilities, supervisors, expectations, and rates of compensation.

56. As a Personal Trainer, Markiewicz reported to a different Director, Barbara Cullen. Markiewicz' starting rate was \$18.00 per hour and, at the time that his employment was terminated for cause, he was earning \$27.00 per hour as a Personal Trainer.

57. Markiewicz's job duties and responsibilities as a Personal Trainer included related administrative tasks which he (like the Tennis Employees) now claims constitute uncompensated "off-the-clock" work.

58. In his single example, Markiewicz asserts that he was not compensated for his "frequent telephone contact with club members." Yet, his Personal Trainer job description—which he signed—specifically states that he was required to "Provide follow up through use of

telephone calls” *as part of his job*. A copy of Markiewicz’s job description as a Personal Trainer is attached as Exhibit 8.

59. Markiewicz’ claim that he was occasionally so busy that he could not complete his work as a Fitness Professional in an eight-hour day is also beyond belief. Indeed, he wrote on his 2003 Performance Evaluation that he needed “more responsibilities and involvement to keep me busy.” A copy of Markiewicz’s 2003 Performance Evaluation, which he signed on October 20, 2003, is attached as Exhibit 9.

60. Despite the fact that he worked two different jobs at Club Fit, Markiewicz claims that his rate of pay as a Personal Trainer should have been at time-and-a-half his rate as a Fitness Professional. It is, however, beyond doubt that Markiewicz was paid *more* than 1.5 times his Fitness Professional rate for time worked as a Personal Trainer.

61. If Markiewicz’s argument is followed to its logical conclusion, then Club Fit *overpaid* him for his work as a Personal Trainer.

62. Since May of this year, at least one current Club Fit employee has told me that he was solicited by one or more of the Plaintiffs to join them in this litigation. This employee told me that he does not intend to join in this case.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated at Briarcliff Manor, New York
this 11th day of August, 2008.


By: 
BILL BECK
Vice President, Club Operations
Club Fit

Exhibit 1

Employee

Handbook



Employment of Immigrants

Club Fit requires documentation of legal work status for all employees who are not United States citizens.

Hiring

Promotions and Transfers — Our staff is our greatest asset. Each staff member's contribution is important. We endeavor to provide training and a work environment to help each staff member become the best they can. We promote from within whenever possible when filling all vacancies. However, Club Fit reserves its right to promote or fill a vacant position with any candidate it chooses.

Orientation

Employees are required to complete an orientation period of 90 calendar days. During this period, the employee will learn about the Club, his or her job responsibilities, and the employee's relationship with his or her co-workers and the standard of performance expected. These are provided in a formal job orientation and a formal Club orientation.

All employees must attend Training for Excellence within the first 90 days of employment...this is a job requirement! If a new employee does not meet this requirement at the time of their first performance evaluation (three months) the department manager can exercise their right to dismiss the employee. This description of your orientation does not modify the Club's status of an "at will" employer.

Payday

The payroll will cover a defined two-week work period. The defined work period for each Club location is as follows: The workweek begins on Wednesday morning at the beginning of the day shift and continues fourteen days until the end of the night shift on a Tuesday night. Paychecks will be distributed by Wednesday noon of the following week. Deductions will be made for Federal Income Tax, New York State Income Tax, Social Security and New York State Disability. Each employee will receive an itemization of these deductions for each check.

Recording Time

The Federal Wage and Hour Law requires that we maintain a complete and accurate record of each employee's hours worked. We keep this record through the use of an electronic time clock. You will be paid only for the time that is correctly recorded and approved by your manager. Falsifying time is cause for immediate termination of employment. Employees are required to "punch in/out" when arriving and leaving their shift. There will be a \$10 service charge for all lost paychecks that need to be replaced.

Overtime

Employees who are eligible to receive overtime pay may not work more than 40 hours in a workweek without obtaining prior approval from their manager. Working overtime without prior authorization will lead to disciplinary action, up to and including termination of employment. It is the employee's responsibility to maintain accurate records for all hours worked.

Performance Procedures

All new employees will receive a formal performance evaluation from their department manager at three months (90 days) from their hire date and on their 12-month anniversary. The purpose of the performance evaluation is to record an assessment of the employee's job performance since their last performance evaluation in order to help the employee improve their performance, to help provide the club with a basis for salary review and promotion evaluation.

Increases in Salary

Employees earn salary increases on the basis of performance. Salary increases are based on formal performance evaluation. During the first year of employment, an employee is eligible for a pay review at 12 months. Thereafter, pay reviews are done within a 12-18 month time period.

Grievance Procedures

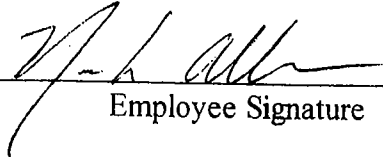
Your most important working relationship is between you and your direct manager. Normally, questions and problems can be solved at this level and every effort should be made to do so.

Exhibit 2

Dear Tennis Employee:

After your evaluation has been read please remind yourself of the following items that always must be addressed each day that you are at work.

1. Please be on time or earlier for your shifts. Check-in at desk as required.
2. Dress in appropriate attire and bring extra clothes.
3. Your personal groomed appearance is required.
4. Address managers, staff and members professionally.
5. Allow time to acquire assignments from the Tennis Director.
6. Begin and finish lessons promptly.
7. Should you begin a lesson late do not finish early.
8. Make sure clients have paid for lessons including group individuals.
9. Discuss make-up classes within the session limits.
10. Remove lesson changes immediately at service desk
11. Any major lesson changes must be approved.
12. Make sure prepaid packages are kept up to date and finish within limits.
13. Leave courts neat and clean, put away balls.
14. Maintenance issues need to be addressed immediately.
15. Be kind with children and no tough language.
16. Discipline issue should sent to director
17. Safety issues are primary, remove balls during lessons.
18. All emergency issues (accidents) require and MOD.
19. Hand in neatly prepared payroll on 30/31 of the months.
20. Collect daily chits for private lessons.
21. Please return phone calls within 24 hours.
22. Keep office neat and tidy.
23. Close the loop with staff, members and clients.
24. Vacation time is to be addressed two months in advance.
25. Do not leave youngster alone on courts (bring tots to the bathroom).
26. Work as a team (help when necessary).
27. Lock up balls and put away props at end of lesson or day.
28. Do not use computer unnecessarily
29. Your prepaid allotments need to be renewed promptly.
30. Advance knowledge of group lesson continuation is vital.
31. You must have lessons covered amongst yourself and tell director.
32. Use your planner to log lessons and calls.
33. Attend monthly and bimonthly meetings.
34. Yearly evaluations are in December and raises are based on merit.
35. Be aware of member service and we try to accommodate all situations.
36. Every half an hour of time is now extremely valuable to the club.
37. Patience, understanding, flexibility and geniality are requested at all times.
38. Please adhere to club policies and procedures as noted in the handbook.
39. Park in staff lot or outer limits of south parking lot.
40. 2002 will be a banner year for ClubFit tennis and all cooperation is needed.
41. Please sign the bottom acknowledging your complete understanding of these items.


Employee Signature

Tennis Director

January 14, 2002

Dear Tennis Employee:

After your evaluation has been read please remind yourself of the following items that always must be addressed each day that you are at work.

1. Please be on time or earlier for your shifts. Check-in at desk as required.
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Todd Bazzini

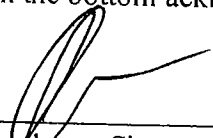
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Employee Signature

1-16-02

Tennis Director

Exhibit 3

JOB DESCRIPTION - TENNIS MANAGER

JOB RESPONSIBILITIES:

(A) Tennis Department - Administrative

- (*) Confirmation in all lesson programs (adult/junior/private/group)
- (*) Direct and manage Adult Men's Tennis League
- (*) Attendance in all junior lessons, including private and group
- (*) Booking junior private / semi-private lessons
- (*) Building and maintaining Junior Program attendance grids
- (*) Special projects relating to the Tennis Department including the Junior Program
- (*) Assist in building and maintaining all computer-based files for tennis program
- (*) Office organization
 - handle all tennis traffic
 - answer questions from members/guests/staff/management
 - maintain all tennis flier racks
- (*) Member Service
- (*) Forward messages & other information to staff from the Director
- (*) Assist in all tennis pro coverage issues (on & off tennis court)
- (*) Other projects as assigned

(B) Tennis Department - Operations

- (*) Payment of all tennis lessons (adult/junior/private/group)
- (*) Billing of all tennis lessons and programs
- (*) Check and maintain all BookingPlus lessons
- (*) Assist in all phone calls for tennis programs and classes
- (*) Assist in all billing for re-stringing & re-gripping business
- (*) Assist running all USTA sanctioned tournaments (adult & junior)
- (*) Report to Director of Tennis / Assistant Director any problems that arise
- (*) Manager on Duty Program

(C) Hours - Tennis Department

- (*) Fulltime administrative position
- (*) Maximum of 10 hours of on court teaching hours per week

(D) Reporting Structure

- (*) Direct line to the Director of Tennis
- (*) Secondary line to the Assistant Director of Tennis
- (*) Indirect line to General Manager

Employee Signature: Uah Alb Date: 9/3/04
Tennis Director: [Signature] Date: 9/3/04
General Manager: D. Wulfsberg Date: 9/3/04
Vice President: Jim Ben Date: 9/2/04

6/04


Exhibit 4

To: Diane Pulleyblank (General Manager – Club Fit Briarcliff)
 Fr: Mitchell S. David (Director of Tennis)
 Re: Noah Allen – Follow Up Evaluation – 1/13/05

Enclosed in this package is a follow up evaluation for Noah Allen as the Tennis Manager for Club Fit Briarcliff Tennis Department. This follow up evaluation for Noah Allen took place on Thursday, January 13, 2005. P
2/3/05


The enclosed documentation will highlight the areas where Noah Allen has an unsatisfactory job performance. He and I have discussed these issues in full detail and he understands the standards, the scope, and the expectations that I have of him as the Tennis Manager of Club Fit Briarcliff. We have gone over the following areas: job description, hours, responsibilities, politics, chain of command, and managerial skills.

Noah Allen will be re-evaluated in 60 days (March 2005) to check on his development as the Tennis Manager. Further, Noah will have weekly meetings with the Tennis Director, Mitchell, to go over daily/weekly/monthly tasks and goals. It is also the purpose of this weekly meeting to assist Noah in the planning and development stages of his role as the Tennis Manager.

Professional:  Date: 1/22/05

Manager:  Date: 1/24/05

General Manager:  Date: 1/24/05

Vice President:  Date: 1/29/05

JOB DESCRIPTION - TENNIS MANAGER

JOB RESPONSIBILITIES:

(A) Tennis Department - Administrative

- ✓ (*) Confirmation in all lesson programs (adult/junior/private/group)
- ✓ (*) Direct and manage Adult Men's Tennis League
- ✓ (*) Attendance in all junior lessons, including private and group
- ✓ (*) Booking junior private / semi-private lessons
- ✓ (*) Building and maintaining Junior Program attendance grids
- ✓ (*) Special projects relating to the Tennis Department including the Junior Program
- ✓ (*) Assist in building and maintaining all computer-based files for tennis program
- ✓ (*) Office organization
 - handle all tennis traffic
 - answer questions from members/guests/staff/management
 - maintain all tennis flier racks
- ✓ (*) Member Service
- ✓ (*) Forward messages & other information to staff from the Director
- ✓ (*) Assist in all tennis pro coverage issues (on & off tennis court)
- ✓ (*) Other projects as assigned

(B) Tennis Department - Operations

- ✓ (*) Payment of all tennis lessons (adult/junior/private/group)
- ✓ (*) Billing of all tennis lessons and programs
- ✓ (*) Check and maintain all BookingPlus lessons
- ✓ (*) Assist in all phone calls for tennis programs and classes
- ✓ (*) Assist in all billing for re-stringing & re-gripping business
- ✓ (*) Assist running all USTA sanctioned tournaments (adult & junior)
- ✓ (*) Report to Director of Tennis / Assistant Director any problems that arise
- ✓ (*) Manager on Duty Program

(C) Hours - Tennis Department

- ✓ (*) Fulltime administrative position
- ✓ (*) Maximum of 10 hours of on court teaching hours per week

(D) Reporting Structure

- ✓ (*) Direct line to the Director of Tennis
- ✓ (*) Secondary line to the Assistant Director of Tennis
- ✓ (*) Indirect line to General Manager

✓
→ AREAS TO IMPROVE
→ MEETS STANDARD

NOAH ALLEN – FOLLOW UP TENNIS MANAGER TRAINING:

- (A) Confirmation in all Lesson Programs (adult/junior/private/group)
 - phone calls / registration sheets / emails (if necessary)
 - time on / off the court
- (B) Attendance in all Junior Lessons – including private and group
 - time on the court
 - accurate records (courts/pros/students)
 - talk to the juniors and adults during JDP time – ask questions
- (C) Building and Maintaining Junior Program attendance grids
 - type written / accurate / neat / orderly
 - kept in a binder for jdp session for later reference
- (D) Special projects relating to the Tennis Dept. including Junior Program
 - drill book
 - instructor training
 - “stream-lining” instructor lessons to prepare for Level 1 Training Program
 - meeting with pros to discuss drills / skills / levels / students
- (E) Handle all tennis traffic
 - when you are around and visible
 - must be visible on and off the tennis court → no cell phones
 - aggressively pursue all tennis inquiries
 - talk to the parents / juniors → interview them to get perspective on program
 - must be available during JDP
- (F) Answer questions from members / guests / staff / management
 - when you are around and visible
 - cannot just spend time with one or a small group of people
 - must be available during JDP
- (G) Maintain all tennis flier racks
 - all flier racks must be filled at all times (office / front display / locker area)
- (H) Member Service
 - when you are around and visible → must be available during JDP
 - must stay interactive during the JDP time
- (I) Other projects as assigned
 - refer to item D

(J) Assist in all phone calls for tennis programs and classes

- responsible for all phone calls for JDP for registration (Dec/Mar/Apr/May/June/Aug/Sept)
- document final results (yes / no / call to discuss)
- do not just leave a message
- proactive in getting an answer
- paperwork → full documentation including payment info / phone numbers / email / etc...
- verification of phone numbers and all other information

(K) Assist in running all USTA sanctioned tournaments (adult & junior)

(L) Fulltime Administrative Position:

- a full time employee works 35 hours or more per week and is normally scheduled to work 40.
- All additional teaching hours, are considered and done in addition to the 35 / 40 hours a week that are regularly scheduled
-

Exhibit 5

Next Review - 9/05

(E) 4/28/05

CLUB FIT EMPLOYEE PERFORMANCE EVALUATION

Professional: Noah Allen **Date:** 3/05
Topic: 60 day re-evaluation

This document is a 60-day re-evaluation for Noah Allen as the Tennis Manager of Club Fit Briarcliff covering the period January 11, 2005 through March 18, 2005.

The following areas will be addressed:

Confirmation in all Lesson Programming, Attendance in all Junior Lessons, Building & Maintaining Junior Program Attendance Grids, Special Projects relating to the Tennis Dept. including JDP, Handling all Tennis Traffic, Handling all tennis traffic, Answering questions from Members / Guests / Staff / Mgt, Maintaining all tennis Flier racks, Member Service, Other projects as Assigned, Assist in all phone calls for tennis programs And classes, Assist in running all USTA sanctioned Tournaments, and Full Time Administrative Position

(A) Confirmation in all Lesson Programs (adult / junior / private / group)

- improving → adding new students to JDP on weekly basis
- solid effort at building Winter Junior Tennis Camp February '05 (about 15 kids per day)
- still has to work at communicating program changes regarding JDP → including program down times. Need to spend more phone time to confirm program issues
- began improving amount and quality of time on the court (6 weeks), but has slipped back to less time over the past 2 weeks. Needs to spend more time on court with juniors and parents of juniors

(B) Attendance in all Junior Lessons – including private & group

- improved → much more accurate
- needs to spend more time on the court with juniors and parents of juniors
- should be more vocal and visible during jdp times

(C) Building & Maintaining Junior Program Attendance Grids

- keeping improved records → providing me with updated material as necessary
- getting more current with phone numbers (home & cell)
- working toward getting email addresses for later use

(D) Special Projects relating to the Tennis Dept. including Junior Program:

- completed Tennis Drill Book – very thorough job including skills, drills, and concepts
- took initiative to design / copy / distribute copies to staff
- needs to meet with staff regarding Drill Book to incorporate ideas into lesson plans → has not met with staff yet → needs to be more confident with direction and objectives of his position. Needs to be more aggressive at getting info out to staff

(E) Handle all Tennis Traffic

- solid job handling all tennis related issues when present
- much better coordination on Saturdays
- able to process at more efficient level and in a shorter amount of time
- much more assertive in handling JDP traffic and all other questions
- very effective in this capacity – much smoother transition

(F) Answer Questions from Members / Guests / Staff / Management

- much more assertive in handling members or redirecting them to appropriate staff
- good problem solving when it comes to placing new JDP students
- handles try-outs well, and is clear with “new” members regarding jdp policies

(G) Maintain all flier racks

- better at keeping racks full. Needs to stay on top of front flier rack. Keep full at all times
- effective job of keeping tennis office racks full

(H) Member Service

- refer to heading E

(I) Other Projects as Assigned

- refer to heading D

(J) Assist in all Phone Calls for Tennis Programs & Classes

- needs to be more assertive with making phone calls regarding schedule & class changes
- cannot be averse to getting on phone
- has to start to be more **proactive** about getting information out to the membership and making any changes to the posted information. Has to try and anticipate the amount of work or time necessary to complete a given task, then complete it

(K) Assist in Running all USTA Sanctioned Tournaments (Adult & Junior)

(L) Fulltime Administrative Position

- working a much more complete administrative schedule
- needs to realize part of a team... each has a role & purpose. Any changes to coverage will impact rest of team. Need to take that into account when making decisions

(M) Additional Comments:

- solid start to our last evaluation – 1/11/05
- starting to slip over the last 2 weeks in following areas:
 - 1) cell phone time
 - 2) visibility during jdp
 - 3) involvement with juniors during jdp time
 - 4) personal time during business hours → image, conduct, behavior
 - 5) willingness to accept full role & responsibilities with due outcomes
 - 6) tendencies to be “phone averse”
 - 7) communication on / off court
 - 8) need for continued training on program objectives, goals, conduct, execution of job responsibilities
 - 9) concept of team

Final Summary 3/17/2005

I feel that Noah Allen has made progress in all of the areas that we spoke of in our last evaluation in January 2005. He has taken a much stronger hold of the program and is starting to understand his role within the tennis department and the tennis program. And although these are new areas we are getting involved with I do feel Noah is developing his role within Briarcliff tennis.

One part that still requires attention is his willingness to understand what it fully takes to complete his job as per my own requirements. The Briarcliff Tennis Department is a tremendous program that requires a lot of hands on to assure its continued growth and success. A core reason for current success is our attention to detail and being more accountable to specific programming. Each program has both specific requirements and "hidden" requirements to assure their continued success. We must strive to "close the gaps" with our administrative procedures covering these respective programs. And whatever is necessary to make that happen is our goal. Noah has a solid hold on his Men's League; and I feel that has happened because of all the time he has put in over the years and some of my input over the last 2 years. This is a prime example of the type of leadership that I am looking for within my staff. Noah knows the Men's League inside and out! It is my expectation that Noah will learn the Junior Development Program here at Briarcliff with the same insight, initiative, enthusiasm, willingness, and professional excellence he has with his Men's League. The JDP is a different program with an entirely different set of rules, regulations, policies, and characteristics and will therefore require a much greater effort to learn, maintain, and develop.

The Club Fit Tennis Department is a constantly changing and evolving environment. It has been since I have taken over and it will continue as we grow and develop in the future. Our roles as administrators, therefore, can be difficult because it requires seeing through some of the "gray" areas and making effective decisions regarding staffing, programming, membership, classes, etc. As a result of all of this change and our continued development and evolution, the relationship we build with our staff is crucial to our success. We must sometimes say and do things that we may not like, but never the less have to be done. That is our role and our responsibility as managers and administrative leaders. A lot of issues may not be so simple, and may require a second look. Our role is to see to the heart of the matter and make effective decisions regarding the tennis program, the tennis department, the club, and the staff. All of these ideas and principles we must take into account. This is not an easy road, but with the foundation already built in, I think we are off to a good start. We just have to work at maintaining our communication within the management team and the staff. The staff is key, and as managers we cannot forget that.

It is important Noah make a distinction between work time and personal time; when he is "on the clock" his full attention must be on his job. He needs to be aware of how his actions are perceived by those around him, and conduct himself with prudence and respect for our members, the club and the tennis department.

I do feel that Noah Allen can be even more successful as the Tennis Manager at Club Fit Briarcliff. He has made significant progress since our last evaluation, but still has a lot to learn and develop in order to reach the level of success that I know he can (and that is required by the complexity of our program). This ultimate decision will be his, but to reach these lofty goals and expectations will demand a consistently high level of output that only Noah can do. These last 3 months, Noah has firmly entrenched himself within the JDP and made himself a very recognizable name. The staff and the membership do see this transformation in him and we all look forward to him achieving even greater success within the department. That can only come from within him. As his department manager, I am here to help him and assist him in any way necessary. Together we can bring this department to the next level!

I look forward to working with Noah in the coming weeks and months to make our tennis program the best it can be. The challenge has been issued...

Exhibit 6

**Junior Ladder League
Staff Coverage Policy
9/29/2007**

The responsibilities for the staff coverage for the Junior Ladder League is as follows:

1. Greg Leonarczyk-Program Director – Insures that matches are played and results are tabulated each day. Put on the matches and take scores. Insures all courts are picked up and ready for maintenance at the conclusion of the League. Insures the security of the café door, back gate by the bubble is locked and the front door is secure. Leaves the key for the front and café door in the pros office. All matches are complete by 10:30 pm. Club closed no later than 11:00 pm. Checks the condition of the clay courts and indoor hard courts. Tables and draw sheets removed from courts. Courts clear of trash, picked up, all balls up, carts in the proper position and courts ready for scheduled maintenance. Last person out of the building.
2. Erin Crandall – Assistant Ladder League Coordinator will take attendance, payments and give them to David Hugues to be processed at the beginning of the League through the front desk on Sunday. Create attendance sheet for each Ladder League. The attendance sheet will be used to check juniors in and out of the club. It will reflect the time a junior is picked up and who is bringing the child home after the league. Assistant will give safety talk at the beginning of the League and rules for club usage (e.g. juniors in the Ladder League may only be in the bubble or courts 8&9. The pool, café, upstairs restrooms as well as the rest of the facility are off limits. If they need to use the bathroom they can use the locker room facilities by the front desk). Juniors must tell the Assistant program director when they are leaving and sign out of the club with the service desk attendant after 9:30 pm. Monitors all matches in the bubble.
3. Ade - Hard court monitor. Helps to keep matches moving. Monitors club usage of juniors. Moves between the bubble and the hard courts. Monitors positioned on courts 8 & 9. Uses walkie-talkie to communicate to program director when courts are open, scores etc.
4. Erin- Front door attendant/monitor. Provides access to the building for parents to pick up their children. Checks out each child. Verifies that adults entering the building have a child in the Ladder league. Notes the time and adult that is taking their child home. Also if another parent is bringing a child home.
5. Justin Loeb – Bubble. Helps run matches and monitors play. Orders pizza. Keeps area between courts clear of trash.

BRIARCLIFF JOB DESCRIPTION FITNESS PROFESSIONAL**Job Responsibilities**

- Professional Appearance and Attitude – represent club
- Staff Uniform (name tag, club issued pants/shorts, shirt only). Jackets can be worn alone, but must be zipped up.
- Service – Working the Room
 - Make sure your name is on the service board
 - Be Visible – let members know you are in the room
 - Be Attentive – observant (see who needs help/correction etc.)
 - Be available to spot members and answer questions
 - Show the members that you care about their workout – take a genuine interest in their progress
 - Learn members' names
- Shift Coverage – if you cannot work your shift, you must get coverage
- Member Appointments: Fitness Assessments, Re-Assessments, 1st/2nd workouts, Keiser, Fitlinxx, Women's, Junior, Cardio, Free Weights
- Teach Forever Fit
- Microfit follow up procedures – monthly phone calls, 3 month postcards
- Fitlinxx
 - Take a genuine interest in your members' workouts and progress
 - Clear Performance Triggers on a weekly basis
 - Bi-weekly phone calls to inactive members
 - Bi-weekly messages
- Attendance at Training for Excellence and monthly staff meeting - *Jan 17th @ 7pm Thurs.*
- Maintain cleanliness of Fitness Center – racking weights and cleaning equipment - *Jan 15th @ 2pm + 7p*
- Read Fit Flash daily

Educational Requirements

- Current CPR
- Fitness related certification
- Experience or College Degree in fitness or health related field
- Mandatory attendance of a minimum of 6 educational workshops a year. This can consist of:
 1. In-house staff training workshops or lectures
 2. CEU workshops
 3. Home study courses (IDEA, ASCM, ACE, etc)

Reporting Structure

- Direct line to Fitness Director, Assistant Fitness Director, or Shift Supervisor
- Indirect line to Club Assistant General Manager or Manager on Duty

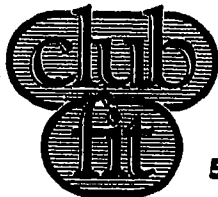
Employee *John Markiewicz* Date *1/7/08*Fitness Director *[Signature]* *John Markiewicz*Assistant General Manager *[Signature]* President *[Signature]*

Exhibit 7

BRIARCLIFF JOB DESCRIPTION FITNESS PROFESSIONAL**Job Responsibilities**

- Professional Appearance and Attitude – represent club
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 1. In-house staff training workshops or lectures
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Reporting Structure

- Direct line to Fitness Director, Assistant Fitness Director, or Shift Supervisor
- Indirect line to Club Assistant General Manager or Manager on Duty

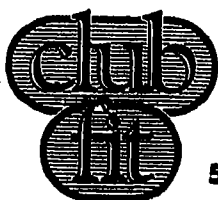
Employee *John Markiewicz* Date *1/7/09*Fitness Director *[Signature]* *John Markiewicz*Assistant General Manager *[Signature]* President *[Signature]*

Exhibit 8

Job Description Personal Trainer

Requirements

National Personal Trainer Certification and/or Fitness related degree
CPR

Fitness Instructor for a minimum of 3 months

Job Responsibilities

Provide accurate Fitness Assessment and evaluate baseline data.

Design exercise programs specific to client's needs and goals.

Emphasize safety through proper warm-up and cool down.

Instruction on use of equipment and modification of exercise to meet the client's individual needs.

Provide opportunity for client re-evaluation.

Provide adequate documentation on each client through the use of the client log sheet.

Adhere to program procedures and Club Fit policies regarding payment, informed consent, medical release, etc.

If a client's needs go beyond your scope of experience or knowledge, please refer to a medical professional or to personal trainer that specializes in that particular need.

Maintain client confidentiality.

Provide follow up through use of telephone calls.

Attend monthly staff meeting.

Attend a minimum of 6 educational lectures or continuing education workshops a year.

Read Fit Flash daily.

Reporting Structure:

Direct line to Fitness Director and Assistant Fitness Director

Indirect line to General Manager or Manager on Duty

Employee Signature: John M. S.

Date: 07/30/02

Fitness Director: Barbara Cullen

General Manager: D. P. Kelly

President: 7/31/02



Exhibit 9



Employee Performance Evaluation

Employee Name: John Markiewicz

Position: Fitness Professional

Club: Briarcliff

Date of Review: Oct. 2003

Date of Next Review: Oct. 2004

Educational Classes: Blood

Pressure Cuff Workshop; Lower

Back Stretch Workshop; Latin

Dancing Workshop

CPR Expiration: Feb. 2004

PT Certifications/Exp: ISSA

{ } 3 month { } Orientation { } 9 month { X } Annual { } Re-evaluation

	Exceeds Expectation	Meets Expectation	Does Not Meet
MEMBER SERVICE			
-Teamwork	[]	[X]	[]
-Body Language - Approachable	[]	[X]	[]
-Positive attitude	[]	[X]	[]
-Initiates activity with diverse groups	[X]	[]	[]
-Ability to motivate members	[]	[X]	[]
-Awareness of room - Multitask	[X]	[]	[]
Comments: John is friendly with the members and the staff. Sometimes he "chats" with the staff more than he should. However, when he is out on the floor servicing the members, he does a fantastic job. He helps spot members, he racks weights, puts away the adjunct equipment and accessories and talks to a variety of members.			

EDUCATION / KNOWLEDGE

-Strength Training	[]	[X]	[]
-Cardiovascular Training	[]	[X]	[]
-Fitlinxx	[]	[X]	[]
-Microfit	[X]	[]	[]
-Booking Plus	[X]	[]	[]

Comments: John gives a good fitness appointment. He works with the member(s) to help them set realistic goals and then helps implement them; he gives a through Fitness Assessment. He helps troubleshoot Microfit issues by checking the computer program and calling Microfit when needed.

OPERATIONS

-Maintenance reporting system used	[X]	[]	[]
-Cleaning	[X]	[]	[]
-Booking Plus	[X]	[]	[]

Comments: John not only uses the equipment repair log and lets me know of any problems we are having, he also attempts to fix the equipment before recording it in the book. He does his cleaning on a weekly basis and understands that the cleanliness of the Fitness Center is of utmost importance. He has helped train the new staff on Booking Plus and therefore has a very good understanding of the Booking Plus system.

Summary of review period: John left Club Fit for 6 months (Jan.-June) to pursue his Paralegal Certificate. He came back to Club Fit in July. He is still pursuing his career in law and has been interviewing. John is always willing to help fill shifts, and do appointments, he is also involved with the FitStart program. When John is focused, he does a good job. Please remember that when you are here working, you need to stay focused.

Goals for the coming year: 1. John is looking for look for a career in law, but still plans to continue his fitness career part time. He is looking to take some educational courses and to take a personal training exam as well.

Employee Comments:

*I need more responsibilities and involvement to keep me busy. I want more certifications but the one I do have is just paying off.
It is good to be back.
It is good to be involved in the FitStart program even though I never received a pay increase for it.
Club Fit is for me.*

Employee Signature

Date: 10/20/03

Manager's signature

Date: 10/20/03

General Manager

Date: 10/20/03